

DARLENE DAVIS-HEEP,

Plaintiff,

v.

CITY OF PHILADELPHIA; SHELLY R.
SMITH and KATHLEEN TIA BURKE,

Defendants.

AND NOW, this 19th day of April, 2010, upon consideration of Defendants City of Philadelphia and Shelly R. Smith's Motion to Dismiss (Doc. No. 3), and the Response and Reply thereto, it is hereby **ORDERED** that said Motion is **DENIED IN PART** and **GRANTED IN PART**. It is **FURTHER ORDERED** that:

1. As to Count I of the Complaint, Defendants' Motion to Dismiss Plaintiff's First Amendment retaliation claims regarding "Reported Misconduct by Burke" and "Cooperation in the McKenna Lawsuit" is **GRANTED**. Defendants' Motion to Dismiss Plaintiff's First Amendment retaliation claim concerning the "Heep-Burke Lawsuit" is **DENIED**;
2. As to Count II, Defendants' Motion to Dismiss Plaintiff's § 1983 claim against the City of Philadelphia and § 1983 race discrimination claim is **DENIED**. Defendants' Motion to Dismiss Plaintiff's § 1983 conspiracy claim and § 1981 race discrimination cause of action is **GRANTED**;

3. Defendants' Motion to Dismiss Count III of the Complaint for state law wrongful termination is **GRANTED**; and

4. Defendants' Motion to Dismiss Count IV of the Complaint for state law conspiracy is **GRANTED**.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE